

A^{ct}
SUMMARY
OF THE
COMMON-LAW
OF
ENGLAND.

As it stood in force, before it
was altered by Statute or Acts of
PARLIAMENT.

Extracted (for the most part) out
of the French and English Copies of
Sir HENRY FINCH, K^t. his learned
Treatise of the LAW.

And digested into certain
Tablets for the help and delight of such
Students as affect METHOD.

By E. W.

Methodus Memoria Dux & Fulcrum.

LONDON,
Printed Anno Salutis, 1662..

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AN
ADVERTISEMENT
TO THE
READER.



THE Science of the Common Law of England, hath not onely been in former times, but even at this day, is accounted so Abstruse and Intricate, that it hath alwayes seemed an Impossibility to reduce it to method: Howbeit, our learned Authour in his Treatise of the Law, hath not onely cloathed it with a Logical method, but with such an exact one, as may be parallel'd with (if not extolled above that of Wollebius for Theology, Ramus for Geometry, Keckerman, Alstedius, and other modern Writers, for Logick, Ethicks, Physicks, Politicks, Mathematicks, &c. So as the Student having treasured up in his memory the Common places of Law held forth in these Tables, together with their coherence and dependance one upon another, may be thereby furnished in all the general and necessary titles of Law,

To the Reader.

whereunto he may aptly refer any Case he meets with, especially having also before hand, by perusing the Treatise at large, acquainted himself with the Definitions, Distributions, Affections, Rules and Examples, respectively belonging to each several Title, whereby he may more perfectly understand the nature of them. Besides, if the Text be not read with these Tablets, he will meet with divers things in them which are now abrogated by Statute, and so not law at this day, as Sanctuaries, which are now annulled by 21 Jac. 28. divers Offences (before) Petty Treason, now by Statute made High Treason, and the like. All which is left to his industry and discretion; the Scope and design of this Summary being onely to shew him the Harmonical frame of the Original Common Law before it was altered by Statute, Acts of Parliament, and other Constitutions of State, according to the caution before in the Title Page premised.

TABLE I.

The Place where it is used, viz. throughout the Realm of England, divided into Counties, Hundreds, and Towns, within which there are divers Usages differing from the Common-Law, called Customs.

Of the Common-Law of England observe

The Circumstances, viz.

The persons who are to use it, and they are to be considered

As one } The King.
entire } His Sub- } Barons.
Body } jects, } Commons.

Natural persons, as every man,

As particular Persons

Bodies Politick

At the Com. Law

The King alone,
and by himself
considered.

The Rector of a
Church, or Par-
son.

Chow of latter time,

Temporal, as Major and Commonwealth, &c.

Regular, as
Abbot and
Covent, &c.

Spiritual

Secular, as
Bishop &
Chapter,
&c.

2. The parts, See Tab. 2.

2. The parts, See Tab. 2.
3. The common Affection, viz. Action, Tab. 24.

TABLE.

1. To Possessions } Grant.
this is general, } Exchange.
that they may } Prescripti-
pass by } on.

2. Sundry } ynt Tenants, who
possession } possess by the
the same } same Title.
thing by } Tenants in com-
purchase } mon, who pos-
are } se's by several
Titles.

Limitation, which
ceaseth upon do-
ing or not doing
of something.

Condition, which
is onely defeasa-
ble upon the do-
ing or not doing
of something.

Absolute, which is nei-
ther upon limitation
or condition.

3. A possession is either
Restrictive, upon

4. Tab. 3.
The Species, or several kinds, Tab. 4.

The other, the punishment of offences,
Tab. 12.

The parts
of the
Common
Law are

The one concern Possessions, whereof consider

The General Affections

A possession is either

Restrictive, upon

4. Tab. 3.

The Species, or several kinds, Tab. 4.

The other, the punishment of offences,
Tab. 12.

TABLE 3.

Possession, viz such as one doth enjoy.

4. Possessions are either in

Action, touching which consider

1. How it a-
leth, and that is
in respect of a

Right, when wrong was
done before.

Title, when no wrong
was done.

2. The Rules which concern it.

1. A thing in A
ction cannot be
granted, but to
him in possessi
on, and that by

Release, which is
the passing of the
Grantors Interest.

Confirmation, wh
is the ratifying of
the Grantees pos-
sessions.

2. The grant of a
thing in Action,
and of such things
in possession, as can-
not pass by livery
of the hand, must
be by Deed, viz.

Deed Pol,
which is the
only Deed of
the Grantor.

Indenture,
which is the
mutual Deed
of both, and
makes an Es-
topel to both
parties.

TABLE 4.

The several kinds of Possession, and so a Possession is

An Hereditament, whereof consider

The several Estates, viz.

Particular, viz.

Certain, which is also called a Term, whereof consider

The several kinds,

For life

In Deed, after actual Seisin.

In Law before entry.

For his own life.

For anothers life, and these are

Free-hold.

These pass by Surrender.

Inheritance, Tab. 5.

The several kinds, Tab. 6.

Chattel, Tab. 11.

Uncertain,

At will,

At sufferance, when after full occupation he continueth possession without Authority.

According to the custom, as a copyholder. At pleasure, as a bare Tenant at will.

Remainder, which is the residue of an Estate at the same time appointed over.

Reversion, which is the residue of an Estate not at the same time appointed over.

These pass with Attornment.

TABLE 5.

The estate
called fee-
simple,
which is
Inheri-
tance,
whereof
consider

Conditional, when an Hereditament is limited to the heirs of the body : hither Frank-marriage may be referred,

Absolute, which is a Fee-simple to one and his heirs whatsoever,

The Incidents.

Dower whereby a woman hath
the thirds in severalty.
Tenancy by the courtesie of
England.

The diverse manners of posses- } De d.
sing it, viz. in } Law.

TABLE 6.

The several kinds of an Hereditament, and so it is

Common, as

A Tene-
mēt which
is a posses-
sion hold-
en, and it is

Land, which is a Tenement in manual occupation, and here prescription hath no place.

An Advowson, which is
the Interest of pre-
senting to a Church.

A bare Hereditamene, Tab. 7.
ogative, Tab. 10.

TABLE 7.

A bare Hereditament, which concerns	Land, and so it is	Leviable by distress, as	A Seignior which is a Service, whereby Land is holden, and such Services are	Common to all certain Estates.	Fealty.
					Rent-Service: Hither also may be referred Frank almoigne, and Divine-Service.
					General { Homage. Suit of Court.
				Proper to Inheritance	Particular, whereby Lands are distinguished.
					The Services themselves, { Soc- cage. Knight- Service.
					{ In the Lords life-time, as reasonable Aide, After his death, as Wardship and Relief.
			A Rent charge, which is a Rent with liberty to distrain, upon the Grant or Reservation of a certain Rent to be issuing out of Land.		
			{ Such as cannot be distrained for, Tab 8. The persons, Tab. 9.		

A bare
conce
which
be t

TABLE 8.

A bare Hereditament concerning Land, for which no distress can be taken, is	<div style="display: flex; align-items: center;"> <div style="font-size: 4em; margin-right: 10px;">{</div> <div> <p>Rent-seck, which is a Rent without liberty to distrain.</p> <p>Common, which is a profit to be taken in anothers land: whither also may be referred Estovers, Houseboot, &c. Also a way over Land, liberty to Fish, Hunt, draw water, or the like.</p> </div> </div>
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TABLE 9.

A bare hereditament, that concerns the person, is	<div style="display: flex; align-items: center;"> <div style="font-size: 4em; margin-right: 10px;">{</div> <div> <p>Of the person himself, as a Villain.</p> </div> </div>
	<div style="display: flex; align-items: center;"> <div style="font-size: 4em; margin-right: 10px;">{</div> <div> <p>An Annuity, which is a yearly Rent to be had of the person of the Grantor.</p> <p>A Ceroody, which is a portion for ones sustenance or cloathing.</p> <p>An Office, which is a duty of attendance upon a charge.</p> </div> </div>

TABLE 10.

A Prerogative hereditament, which is derived from the Kings Prerogative, and is termed a Franchise, being a Royal privilege in the hands of a Subject; as Markets, Fairs, Toll, and whatsoever liberties else, which (created at first by the Kings special Grant, or of their own nature belonging to him) are given to a common person to have an estate in: Of this sort also are Execution and return of Writs, forfeited Recognizances, Fines, Post-fines, issues, Amerciaments, and other Green wax money within such a Precinct or Liberty. Also power there to make a Coroner, Clerk of the Market, and other Officers; to have therein Treasure Trove, Deodands, wreck of the Sea, Waifs, Estrayes, the goods of Felons, and outlawed persons, Royal Mines, Royal Fish; to keep a Leet, to take Conscience of Fines, to hold plea of debts and damages, Sans sum, and the like.

These are not to be several Estates whereof consider

TABLE II.

The common Affection, viz. That all ones own Chattels (whether in possession or action, as debts, &c.) may be devised by Testament, which is the appointment of an Executor to administer them for him after his death.

Real, as a Term for years, or Wardship.

A simple bailment, when he receives them to keep for another.

A pledge, when he receiveth them for another thing had of him at the time.

To keep, when only the custody is committed to him, and that is

To employ, as when the Bailee hath the things to use for anothers profit.

Contract, which is a mutual agreement for the very property of Personal things.

In general
Bailments, which is the delivery of goods

In particular, viz. for the Interest of things uncertain, as

Accord, which is an agreement of the parties themselves upon satisfaction executed.

Arbitrement, which is an Award of satisfaction by others.

Personal, to which divers things belong

The several kinds, and so it is

A Chattel, wherein there cannot be several Estates, whereof consider

TABLE 12.

Punishment of offences, which are	Without force, as	Trespasses upon the Case.	Common, as	<p>Disturbance, which is the hindering of that which belongeth to one to do.</p> <p>Nuisance, which is an annoyance done to ones Hereditant.</p> <p>Deceit, when the damage groweth by an undue flight, or the like.</p> <p>Conspiracy to do one wrong, or the like.</p> <p>Offences in the nature of Trespasses upon the Case, which are (by the Kings Prerogative) punishable like to them, viz. by amerciaments as Non suit in an Action; Fault in the Original Writ he brings; Or (by the Sheriff) in the return thereof, making default, when he should appear: And whatsoever other offences (not being with force) which offer no direct injury to a common person.</p>

Real wrong, Tab. 13.

Coupled with force, Tab. 14.

Arcahw. engls

TABLE 13.

Discontinuance, when one having an Estate Tail or Fee-simple in anothers right, maketh a larger Estate of the Land then he may.

Land, when one is put or hold out by a forcible Entry. Detainer.

In every Incloser. Went by Forecasser.

In rent service & rent charge by Rescous. Replevin.

In rent charge and rents seek by Denyer.

Usurpation, when the Church becometh full by the presentment of a wrong Parson.

Intrusion, which is after the death of the Tenant for life.

In Law, as by

Abatement, which is after the death of one that had the Inheritance.

B

TABLE 14.

Wrongs coupled with force, and they are

Not punishable by death,

Trespasses, and they touch

The person, and so Trespasses are

With violence indeed, as

Bodily hurts, and they are

8

Goods, which is the wrongfull taking of them with pretence of Title.
Land, when it is done upon an actual possession thereof.

With pretence of violence, as

Menaces, which are threatening words of beating one, or the like.

Affault, which is an unlawfull striking upon ones person.

False imprisonment, which is an unlawfull restraint of liberty.

Offences, and they are

Battery, which is the wrongful beating of one.
Maim, which is the wrongfull spoiling of a member defensible in fight.

Rape, which is the carnal abusing of a woman against her will.

Offences against the Publick, Tab 15.

Punishable by death, Tab 19

TABLE 13.

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Offences
against
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ed Con-
tempt) may be
committed
either.

Against
the Com-
mon-
wealth,
viz. a-
gainst

By his Writ.

1. To disobey
the Kings
Command.

By his Pro-
clamation.

Against
the Kings
as

2. Disobey any thing ordain-
ed by Statute.

1. The peace thereof; as Ri-
ors, Routs, unlawfull Assem-
blies, breach of the Peace
and Good behaviour, false
news, Barrering, Eyes-drop-
ping, &c. Also all Trespas-
ses with force, for which a
man may be both indicted
and prosecuted at Law by
the Suit of the Party.

2. The strength, as to send
aid to the Kings Enemies,
to go beyond Sea, without
the Kings Licence, &c.

3. The Justice, Tab. 15.

4. The Wealth, Tab. 17.

5. The Passages, Tab. 18.

TABLE 6.

1. Perverting of Justice, as corrupt Judges, who pervert Justice; corrupt or negligent Officers, Enditors, corrupt Jurors; Extortion; Escapes, negligent and voluntary, &c.
2. All force against the Justice of the Realm, as Rescous of a Felon, or others; Affrays in disturbance of Justice; to go armed in the Kings Palace; To strike in *Westminster Hall*, for which he shall lose his right hand; so shall he that strikes a Juror in the presence of the Justices, and be also committed to perpetual Imprisonment.
3. Publick Offences against the Justice of the Common wealth, as
 3. Conventicles, which comprehend Conspirators and Confederators, Maintenance, Chauperry, &c.
 4. Offences in favour of Malefactors, as Misprisions of Treason or Felony, which for Treason is perpetual Imprisonment: Theft, when a man receives his goods from a Thief, with purpose to favour and maintain him; here the punishment is Ransom and Imprisonment; not assisting the Sheriff, Constable, or other Officer, &c.
 5. Contempt of Justice, as he that flies for Treason or Felony: He that in case of Treason or Felony carries the Exigent: He that suffers himself to be outlawed, &c.
 6. Falsifying of Justice; as Perjury, Subornation, Forgery, Embracery: all other Falshood in matter of Justice, &c.

TABLE 17.

- | | | |
|--|-----------------------------------|---|
| <p>4. Publick Offences against the wealth of the Commonwealth, and that may be</p> | <p>In the course of Trade, as</p> | <ol style="list-style-type: none"> 1. To transport the Commodities of the Realm without the Kings Licence, and paying his Custom, Fore-stallers, Regraders, and Ingrossers, Monopolies, Conspiracies of Merchants, false Weights and Measures, &c. 2. Uttering corrupt Vintuals. 3. Usury, and all Oppression. |
|--|-----------------------------------|---|

Out of the course of Trade, as Depopulation, burning of Houses, Barns, &c.

TABLE 18.

5. Publick offences against the Passages of the Common-wealth, as Bridges, Cawseys, High-ways, or Streets broken down or digged up : Unto which place may also be referred Common Nuisances, Purprestures, &c. Such Nuisances any man may abate : And as to Nuisances, there is a Writ in the Register for any person that will sue, when the Wayes, Streets, or Landes of any Town, City, or Borough Corporate, or the Subuibs thereof are full of Dirt, Soil, or the like ; whereby infection may be caused : And this Writ may be directed to the Mayor, or the like, to cause them to be cleansed and kept clean. There is also another Writ for removing a Leper, to prevent infection ; both which Writs will come hereafter to be mentioned in their proper places.

TABLE 19

Stealth, which is the wrongfull taking of Goods, without pretence of Title.

Chance-medly, which is Man-slaughter without former malice.

Murder, which is Man-slaughter upon former malice

R. bbery, which is stealth from ones person by assault in the High-way.

Burglary, which is the night-breaking of an house, with an intent to steale or kill, though nothing be stolon, or any body killed.

Other publick offences occasioned thereby, as breaking of prison, wilfull escape of a Felon, &c.

Petty Treason, Tab. 20.

High Treason, Tab. 21.

Single, as

Man-slaughter.

The offence itself, which is

Mixt, as

Bare Felony, where consider

Felony, which is

Wrongs or offences punishable by death, termed also offences against the Crown, &c.

TABLE 20.

Petty Treason, the pu- nishment whereof is burning, and it is	General,	Against mortal Crea- tures.	Petty Treason (properly so called) which is the killing of one to whom private obedience is due.
			Sodomy, which is a carnal copulation against na- ture.
		Against God,	Heretic, which is an offence immediately bent against the Majesty of God.
			Sorcery, which is a consulting with Devils, and containeth under it Conjuring, Necro- mancy, and the like.
		More particular, in respect of the Kings Prerogative, as counterfeiting his Coin, Seals, &c. to acknowledge any foreign Potentate, to bring false money into the Realm, counterfeit to the money of England.	

TABLE 21.

High Treason, which is an offence of the Crown di-
rectly bent against the State. Also to kill the Chan-
cellor, Treasurer, a Justice of either Bench, a Justice in
Eyre, of Assise, or Oyer and Terminer, being in their
places, and doing their Offices, is High Treason.

TABLE 22.

The Parliament.

The common Affection, viz. Action, whereof consider
The places where it is transacted, viz. in

Courts of Record, as

Courts that have ordinary Jurisdiction, and they are

General, whose Jurisdiction extends throughout the Realm,

Within some County

Granted by the Kings Letters Patents

Circumstances, as

The several Kinds,

Through the whole County,
Within Liberties, as

Place, where they are holden, viz. at Westminster.

Time when viz. in the Term of

Micha-
elmas.
Hilary.
Easter,
Trinity.

Chancery.
Kings Bench.
Common-
place.
Exchequer.

The Sheriffs turn.
The Cor-
oners Court.
A Leet.
A Court of
Pipowder.

Courts by the Kings Commissions.

Courts by Charter in Corporations, &c.

Court
Barons,

The Lords Of a Manor.

Of an Hundred.

The Sheriffs, called the County Court.

The Parts, Tab. 23.

TABLE 23.

The parts of an Action are	
The Suit, which hath 3 parts, viz	
The beginning of the Suit, which hath 2 parts,	
The first matter of the Suit	
For every man	
By Writ out of the Chancery, which is	
Original, which concerns	
Common Pleas, and so it is	
Real, whereof consider	
The Common Affections, as Tab. 24.	
The several kinds, Tab. 25.	
Personal, Tab. 31.	
Appeals, Tab. 33.	
Commissional, Tab. 34.	
By Plaint, or Bill, Tab. 35.	
For the King, Tab. 36.	
The Original Process, Tab. 37.	
The Proceeding, Tab. 40.	
The Judgment, Tab. 46.	

TABLE 24.

The common affections, as	Possessory, to recover a Possession	In himself, descended from his Ancestor.
	In the Right, to recover a Possession mixt in the right	In himself, descended from his Ancestor.

The several kinds of a real Original Writ, and so it is

TABLE 25,

The several kinds of a real Original Writ, and so it is

A præcipe

A Præcipe quod reddat

A Plea of Land

A Writ of Entry, the several kinds thereof will best appear, if we consider

How is grows, viz.

without wrong at the first

Upon disability of the person that made it.

Dum fuit infra ætatem.
Dum fuit non compos mentis.

Upon a wrong, *Tab. 26.*

A writ shewing the Demandants Title, *Tab. 27.*

Another real *præcipe quod reddat*, *Tab. 28.*

A Præcipe quod faciat, *Tab. 29.*

A Si fecerit te securum, *Tab. 30.*

Against whom it is brought, viz.

Against the first party,

In the degrees

In the Per.

In the Per and Cai.

A particular estate ended

Ad terminum qui præterit.
Entry, ad Communem Legem.

A condition broken, as *Causa Matrimonii prælocuti.*

TABLE 26.

Upon a wrong, viz.	Upon a disconti- nuance:	For the recovery of a woman's Inheritance or Free hold, after her husbands alienation, and	Death, as <i>Cuius in vita</i> , and for her Heir, a <i>sur cuius in vita</i> .
			Divorce, as a <i>Cuius ante divorcium</i> :
An Officer		For the Successor of a Bishop, or, &c. after the discontinuance of his Predecessor, as a <i>Sine assensu capituli</i> .	
		Upon an Intrusion, as a Writ of Intrusion for him in Reversion, or Remainder: Upon a Disseisin, as a Writ of Entry in the <i>Quia</i> , being a Writ in the nature of an Assize.	

TABLE 27.

A Writ shewing the Demandant's Title, which is	Pollage- tory as a Writ of	After the death of the Grand-father, or Grand-mother.	
		After the death of the great Grand father, or great Grand-mother.	
		Cousinages, after the death of the great great Grand-father, or great great Grand-mother, &c.	
In the right	A Writ of right in his nature, as a	Former Remainder, or Reverter.	
		Writ of Escheat: Writ of Dower, <i>unde nihil habet</i> :	
		A Precipe in Capite, for the mear right of Lands holden in chief.	

TABLE 28.

Another real *Præcipe quod reddat*, in respect of a Seigniorie, as

- A Writ of Right of Ward, to recover the Wardship.
- A Writ of Right for Disclaimer, for the Lord to prove the Lands to be holden of him, when the Tenant is a Court of Record disclaimeth to hold of him.

TABLE 29.

A real *Præcipe quod faciat*, which is either to recover an

- Hereditament, and this is either
 - In respect of a Seigniorie:
 - A Writ *de consuetudinibus & servitutibus.*
 - Secunda ad malandinum.*
 - To recover some other Hereditament.
 - A *Quare Impedit.*
 - A *Quod permittat.*
 - A *Litis claudenda.*
- A Writ of Covenant, as to levy a Fine of Lands, &c.
 - Some real thing that concerns an Hereditament, as
 - Writs in the nature of a Covenant real.
 - A Writ of Mesne.
 - A *Warrantia Carta.*

TABLE 30.

An Affise	Of his own possession, as	{	An Affise of Novel Disseisin,
			An Affise of Nur- sance.
	Of his Ancestors Possession; as an Affise of <i>Mortdancestor</i> .		
	Either of his own or his Ancestors possession, as an Affise of Darrein presentment.		
A real Si fecerit te securum.	A <i>Juris utrum</i> , for a Parson or Vicar, upon his Predecessors alienation.		
Others	Such as be between Privies in blood; as	{	A Partitio- <i>facienda.</i>
			A <i>Nuper obi-</i> <i>it.</i>
	A <i>Quo jure</i> , to try for Common?		

TABLE 31.

A personal Original Writ is also	A <i>Præcipe</i>	A <i>Præcipe quod reddat.</i>	Debt, and a Writ of Annuity.
			Detinue.
		A <i>Præcipe quod faciat.</i>	An Action of Account.
			An Action of Covenant.
	A <i>Si fecerit te securum</i> , Tab. 32.		

TABLE 32.

<p>A personal <i>Si fecerit se secutum,</i> which is</p>	<p>Without force, Where the peace is not broken,</p>	1. <i>Rationabili parte bonorum.</i>
		2. <i>Valore Maritagii.</i>
		3. Writ or forfeiture of Marriage.
		4. Intrusion of Ward.
		5. <i>Ejectione custodiam.</i>
		6. <i>Quare ejecit infra terminum.</i>
		7. Trespases upon the Cases not against the Peace.
<p>With force</p>	<p>Where the Peace is broken, yet not <i>Vi</i>, as</p>	An Action of Deceit.
		An Action of Conspiracy.
	<p>Special Actions of Trespases, as</p>	An Action of Trespas.
		<p><i>De parco facto.</i> <i>Rescous.</i> <i>Ejectione firma.</i></p>

TABLE 33.

An Appeal which concerneth life, and is the parties private Action, prosecuting also for the Crown, in respect of a Felony, and this is given onely to the Heir of the party slain.

TABLE 34.

A Writ of right Patent.

An Abuse of petty Nuisance.

Admeasurement of Dower.

Admeasurement of Pasture.

A Nativus habendo.

A Rationabilibus divisis.

A Homine replegiando.

A Replevin.

Also many of the Actions that went before, as *Consuetudinibus & Servitiis, Secta ad malendinum, Quod permittat, Mesne Dower, Unde nihil habet, Annuity, Debt, Detinue, Covenant, Trespass, &c.* to what sum soever, be brought, and also determined in the County by Justices :

Oyer and Terminer.

Association.

Si non omnes.

Ad quod damnum.

Perambulatione facienda.

Meer Commissions, as,

Commissionary, as

A Fellicies

A Commissionall Writ, which is either.

TABLE 35.

Plaint in matters that concern Common pleas.

In Courts that hold pleas without original Writ, the Suit may be by

Bill, in Pleas of the Crown ; also Officers of any Court (by privilege) may sue or be sued there, and not elsewhere by Bill.

Sizes for the King are

TABLE 36.

A *Quo Warranto*, for the trying of the right of Franchises.

The several wayes how it may be found, viz. *Virtute officii brevis*, & *Commissionis*.

Office to entitle the King to some Possession, whereof consider

The several Writs or Commissions used therein concerning a Wardship, viz.

For finding of it,

Diem clausit extremum, within the year after the Tenants death.

Mandamus after the year.

Devenerunt, when the Anc. stor died in Ward to the King.

For mending it,

Qua plura Melius Inquirendum.
Datum est nobis intelligi.

For discharge of it.

An *Attate prabanda*.

A Writ of Livery, for Lands in Capite.

An *Oußer le main*, for other Knight Service Lands.

How the party may be relieved against it.

By Traverse or *Monstrans de droit*, when the King is entitiled by Office onely.

By Petition, when he is intitiled by double matter of Record, as when the Office finds an Attainder of Treason, or the like.

Presentment or Indictments, to find an Offence against the King, and for penal Laws, an Information.

TABLE 37.

Proper,	Single,	By the Possessions	By the Land,	In all real <i>Præcipes quod reddat,</i>	Summons in Land. Grand cape, to seize it into the Kings hands.
				A <i>Mortdancer,</i> <i>Juris utrum,</i> & Darein pre- sentment,	Summons, Re sumons, and upon default the Inquest a- warded.
	Mixt,	By the Goods and Lands		By the Goods, as in Assises of Novel Disseisin and Nuisance, Attachment by the Defendants goods, which he shall lose if he appear not, and up- on default the Inquest awarded.	
				By the person (in Mayhem, Felony, and Treason) <i>Cap. Exig.</i> Outlawry.	
Improper,				In all other real Ac- tions, and in all personal Actions, (except Trespasses, & Offences against the Publick,) and also in all <i>Justicies,</i>	Summons by the Goods. Attachment. Distress infi- nite, and issues of the Land.
				In all Trespasses upon the Case (except deceit and conspiracy) and in all offences in the nature of trespasses upon the case,	Attach- ment. Distress infinite, & issues.
				By the Goods and Person, as in Trespass <i>vi,</i> Deceit, Conspiracy, and Offences against the Publick; Attachment, Di- stress infinite, and upon <i>nihil</i> returned, <i>3. Capias Exigent,</i> Outlawry.	

Improper, Tab. 38.

TABLE 38.

Improper, which is
not to bring any
matter into Plea,
or solemn Action,
but only to do, or
leave undone
something, and it
is

Commandatory, 25

De dote assignanda.
Homagio capiendo.
Scutagio habendo.
De Corrodio habendo.
De Annua pensione hab.
De Libertatibus alios.
De executione Judicii.
De restitutione Temporalium.
De securitate pacis.
De vrbica removenda.
Of cleansing Streets.
De excommunicato capiendo.
De excommunicato deliberando.
De leproso amovendo.
De cautione admittenda.
De heretico comburendo.
De Coronatore exonerando.
De Coronatore eligendo.
De exoner. vir: forest.
De Elezione vir: forest.
A Writ for the Royal Assent,
to elect an Abbot.
De securitate inveniendi.
All Dedimus potestatem, de
fine levando, de attornato
faciendo, &c.

Prohibitory, Tab. 39.

TABLE 39.

Prohibi-
ty, as

1. A Protection, *cum clausula nolumus*, to free ones Possessions, that nothing be taken against his will for the Kings business.

2. To discharge Spiritual Persons of Fifteens.

3. *Quod clerici non elegantur in Officium Militum &c.*

4 To forbid Tenant in Dowers, by the Curtesie, or Guardian by Knight-service, or in Socage to commit Waste, to the destruction of the Inheritance.

5. A *Quominus*, for Grantee of Estover, to restrain the Grantors from committing Waste, so as he cannot have his Estovers.

6. *De exoneratione sive*, for Tenants by Suit of Court or other Services, that they be not distrained to do the same for such time as they ought to hold the Land discharged.

7. *De dconrando pro rata*, To discharge the Tenant of parcel of the Land according to the rate of his Land, when he is lawfully distrained for all the Rent and Services.

8. *De essendo quieto de Thelonio.*

9. *De non ponendo in Furatis.*

10. *Ne exeas regnum.*

TABLE 40.

The Count, or Declaration.

The Proceeding, which consists in

The pleading, which Pleas are

The Defendants first Pleas, viz.

Dilatory, by taking

Exceptions

In disability

To the jurisdiction of the Court.
To the person.

In Abatement

To the Writ, as default of form, false Latine, &c. and here, if the default be not caused by the Plaintiff, new Writ may be had by Journeys Accounts.
To the Count, as insufficiency, variance from the Writ, &c.

Foreign advantages

In all Actions, as Oyer of the Writ, Condition, &c.

In real Actions, as

View.
Ayde pray
Voucher.

In certain personal Actions :

Garnishment.
Enterpleader, which may also be in a *Quare impedit*,

Sanctuary, and there continuing, viz. for Treason, and other Capital Offences.

Pleas in Bar :

To the action, as

Confessions, to which place Abjur-
ation may be referred, when one
guilty of bare Felony, flyeth to
the Church, &c. and there before
the Coroner confesseth the Facts
and abjures the Realm.

The mutual pleas of, Plaintiff and Defendant,
Tab. 41.

Other mean Acts, Tab. 42.

TABLE 41.

The declaring before issue, as Replication
Rejoinder, Sur-rejoinder, &c.

The mutual Pleas
of Plaintiff
and De-
fendant,
viz.

The Issue it self

O the Fact, and then the trial is

1. Of a matter done To the
in the County, by Array.
Jury, where chal- }
lenges are allowed, To the
viz. Poles.

2. In Writs of right or appeals
for life by Battail.

3. In a Writ of Dower (when the
issue is taken upon the death
of her husband) by witness.

1. When the Tenant
in a real *precipe*
quod reddat was not
summoned.

4. By
wager
of Law.

2. In meer personal
actions growing
without deed or
privity of others.

3. In Plaints in Court
Barons.

Of the Law, as a Demurrer, which is
when (admitting the matters al-
leged) either of them resteth in
the Judgment of the Law.

TABLE 42.

Other mean Acts, as

- 1. Apparance, where, of Essoins, which are
 - Common, as *Essoine de mal vent.*
 - 1. Of going beyond Sea.
 - 2. Of going ad terram Sanctam.
 - 3. Of the Kings Service.
 - 4. *D. malo lecti.*

- 2. Continuance,
 - By Process.
 - Upon the Roll
 - Dies datus.*
 - Emparlance.*

- 3. Judicial Process,
 - A Mesne Process, which is for any necessary act to be done, as against Vouches, Prayee in aide, also
 - 1. Upon a fine levi-
 - ed to compel Attorn-ment, as
 - 1. *Per que servi- tja.*
 - 2. *Quem red- ditum reddit.*
 - 3. *Quid juris cla- mat.*
 - 2. In Petitions, a Writ of search.
 - 3. In real *Præcipe*, upon a default, petty Cape.
 - 4. Upon default, after Vou- cher, a petty Cape, *ad va- lentiam.*
 - 5. In Tach as are for other Hereditaments, upon de- fault, a Distress.
 - 6. Against Jurors,
 - 1. *A Venire facias.*
 - 2. *A Habeas cor- pora.*
 - 3. *A Distress in- finite.*

Process in nature of new Originals, Tab. 43.

TABLE 43.

Process in
the nature
of new O-
riginals, &
they are

Comandatory, v. z. such as command something to be done,

1. Resummons, re-attachment.
2. All certificatory Writs.
3. A *Certiorari*, to remove a Record into the Chancery.
4. Writs to remove Suits,
 - By Writ, as a
 - Tolt, to remove a Writ of right out of the Lords into the County-Court.
 - Pone, to remove out of the Lords Court into the Common-place in all other causes.
 - By Plaint, as a
 - Recordare, to remove Plaints in the County-Court.
 - Accedas. ad curiam, to remove Plaints in a Court Baron.
5. A *Mittimus*, to send a Record out of the Chancery into another Court of Record.
6. A *Procedendo*, to proceed in Suits.
7. A Consultation, to proceed in the Spiritual Court.
8. A Writ of Main-prise, to set one at liberty upon Bail.
9. A Recaption, for him whose Goods are distrained for the same thing.
10. A Writ de *Magna Affisa eligenda*.
11. A Certificate of Affise to Jurors, to give a more perfect Verdict.
12. A *Proprietate probanda*.

Prohibitory Writ, Tab. 45.

TABLE 45.

1. Prohibitions, of this kind is an *Indicavit*.

1. A Writ of Peace.

2. A *Superse-*
deas, of which
kind are

2. A *Libertate probanda*.

3. An *Identitate nominis*.

Prohibito-
ry Writs,
or Process,
as

3. Protections
Cum clausula
nolumus, as

Proteccio quia profecturus.
Proteccio, quia *moratur*,
whither also may be
referred, *Proteccio quia*
in prisoa,

4. *Essoine de malo lecti*.

5. A *Ne admittas*.

6. A *Quare incumbavit*.

TABLE 46.

Judgment which hath Judicial Writs belonging to it, viz.

Meer Judicial, and they are

Such as ly: within a year and a day after the Judgment:

In real Actions,

1. *Habere facias seisinam*, to put him in possession upon a Freehold recovered.
2. A Writ to the Bishop to admit ones Clerk.

In Personal Actions to have Execution of his

Possessions, as

1. *Fieri facias*, to levy Execution upon his Chattels.
2. *Levari facias*, to levy Execution of the profits of his Land and Chattels.
3. *Habere facias possessionem*, upon recovery of a term for years in an *Ejectione firme*, &c.
4. A *Distringas*, for the Kings Amerciaments, &c.

Bodily, as

- Capias ad satisfaciendum.*
Capias pro fine Regis.
Capias Utlagatum.

For the King.

A *Scire facias*, to warn the Defendant, after a year, upon recovery in real Actions, to shew cause why the Plaintiff should not have Execution.

TABLE 47.

New Originals in the nature of judicial Writs, to order some matters concerning Judgments, and these are grounded

Upon an Error

A Writ of Error, which is upon an Error in a Court of Record.

A Writ of false Judgment, which is upon an Error in a base Court.

Otherwise, as

Attaint, which is to enquire whether a Jury of twelve men gave a false Verdict.

Audita querela, which is for one being, or to be in Execution, to relieve him upon good matter of discharge which he hath no means to plead.

A TABLE, shewing the
Pages in the English Copy of
Sir Henry Finches Treatise of the Law,
from whence each Tablet takes its be-
ginning.

Table	Page	Table	Page
1	77	16	These are taken out of the French Co- py, being o- mitted in the English.
2	95	17	
3	106	18	
		19	
4	111	20	206 218
5	116	21	
6	130	22	
7	134	23	221
8	155	24	225
9	159		249
10	164	25	252
11	167	26	264
12	184	27	266
13	190	28	269
14	198	29	272
15	205	30	284

<i>Table</i>	<i>Page</i>	<i>Table</i>	<i>Page</i>
31	294	40	356
32	303	41	
33	310	42	390
			427
34	312	43	441
35	320	44	
36	322	45	446
			450
37	343	46	459
38	490	47	478
39	502		

V I N I S.
